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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/689,901	10/21/2003	David P. Yach	555255012607	555255012607 3987 EXAMINER	
33787	7590 07/14/2006		EXAM		
JOHN J. OSKOREP, ESQ. ONE MAGNIFICENT MILE CENTER			WU, YICUN		
	980 N. MICHIGAN AVE.			PAPER NUMBER	
SUITE 1400			2165		
CHICAGO,	IL 60611		DATE MAILED: 07/14/2006	DATE MAILED: 07/14/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/689,901	YACH, DAVID P.			
Office Action Summary	Examiner	Art Unit			
	Yicun Wu	2165			
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period  - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be time will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. nety filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 23 h	<u>fay 2005</u> .				
2a) This action is <b>FINAL</b> . 2b) ⊠ This	action is non-final.				
· · ·	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) ☐ Claim(s) 1.4-7.10-15 and 18-23 is/are pending 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1.4-7.10-15 and 18-23 is/are rejected 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	wn from consideration.				
Application Papers	·				
9)☐ The specification is objected to by the Examine	or .				
10) The drawing(s) filed on is/are: a) acc		Examiner.			
Applicant may not request that any objection to the	• • • • • • • • • • • • • • • • • • • •				
Replacement drawing sheet(s) including the correc	tion is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).			
11) The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Application in the second	on No ed in this National Stage			
Attachment(s)  1)   Notice of References Cited (PTO-892)	A) 🗀 Interdam ()	(PTO 412)			
<ul> <li>Notice of References Cited (PTO-992)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)</li> <li>Paper No(s)/Mail Date 7/26/2004.</li> </ul>	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

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III. DETAILED ACTION

1. Claims 1,4-7,10-15 and 18-23 are presented for examination.

Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

2. Claims 1,4-7,10-15 and 18-23 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete (See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result (State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

Claim limitation describing --

1. What is the practical application?

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2. What is final result which Applicant considers concrete, useful and tangible?

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Because the "practical application, result, concrete, useful and tangible" limitations are not claimed in Applicant's claims, Examiner asserts that the above listed claims are nonstatutory.

## Other Prior Art Made of Record

3. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions.

Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov <a href="http://www.uspto.gov/">www.uspto.gov/</a>), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <a href="http://www.uspto.gov/ebc/index.html">http://www.uspto.gov/ebc/index.html</a> or 1-866-217-9197.

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## Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yicun Wu whose telephone number is 571-272-4087.

The examiner can normally be reached on 8:00 am to 4:30 pm, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Yicun/Wu

Patent Examiner

Technology Center 2100

June 19, 2006